

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 12-cr-20607

v

Honorable Thomas L. Ludington

D-4 - SUE A. WILSON,

Defendant.

**ORDER GRANTING MOTION TO RECHARACTERIZE AS A MOTION TO VACATE
UNDER 28 U.S.C. § 2255 AND REFERRING MOTIONS TO MAGISTRATE JUDGE
PATRICIA T. MORRIS**

On October 10, 2012, an indictment was issued against Defendant Sue A. Wilson which charged her with conspiring to defraud the United States by furnishing false information to the Social Security Administration. ECF No. 3. At trial, Wilson was found guilty. ECF No. 55. On January 30, 2013, Wilson was sentenced to twenty months of imprisonment. ECF No. 110. On appeal, the Sixth Circuit vacated Wilson's conviction. ECF No. 128. This time, Wilson pleaded guilty. She was sentenced to twelve months and one day of imprisonment. ECF No. 179. On December 13, 2016 Wilson filed a motion to amend her sentence. ECF No. 188.

In the motion, Wilson asked the Court to "amend her sentence to include . . . United States v. Algahain," 2016 WL 7009034. She cites 28 U.S.C. § 2255 in noting that the Court can reduce her sentence "if triggered by an amendment that is retroactively applied." Mot. at 1. Although "the proper avenue for a defendant seeking a sentence reduction based on an amendment to the Sentencing Guidelines is to file a motion under 18 U.S.C. § 3582(c)(2)," *Young v. United States*, No. 3:16-CV-3139, 2016 WL 4472937, at *2 (C.D. Ill. Aug. 24, 2016), Wilson does not appear to be arguing that the Sentencing Guidelines have been amended.

Consequently, the Court issued an order informing Wilson that her motion would be construed as a motion for relief under § 2255 and directing Wilson to explain whether she agreed with the recharacterization. ECF No. 189.

On January 6, 2017, Wilson filed a motion to recharacterize her first motion as a motion for relief under § 2255, ECF No. 190, and also filed a motion, styled as seeking relief under § 2255, ECF No. 191, in which she supplements her arguments for relief. Wilson agrees with the Court that her motion should be characterized as a motion for relief under § 2255. For that reason, her motion to recharacterize her first motion will be granted. Because her second motion provides supplementary arguments, it will be construed as a motion to amend her original motion for relief under § 2255. Wilson's motion for relief under § 2255 and motion to amend will be referred to Magistrate Judge Patricia T. Morris.

Accordingly, it is **ORDERED** that Wilson's motion to recharacterize, ECF No. 190, is **GRANTED**.

It is further **ORDERED** that Wilson's motions, ECF No. 188 and 191, are **REFERRED** to Magistrate Judge Patricia T. Morris.

Dated: January 24, 2017

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 24, 2017.

s/Michael A. Sian
MICHAEL A. SIAN